

1 MITCHELL D. GLINER, ESQ.  
Nevada Bar #003419  
2 3017 West Charleston Blvd., #95  
Las Vegas, NV 89102  
3 (702) 870-8700  
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4 Attorney for Plaintiff

5  
6 UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA  
7

8 ANGELA HERNANDEZ, )  
 )  
9 Plaintiff, )  
 ) No.  
10 vs. )  
 )  
11 PATENAUDE & FELIX, A )  
PROFESSIONAL CORPORATION, )  
12 a foreign corporation, )  
 )  
13 Defendant. )

JURY DEMANDED

14  
COMPLAINT

15  
JURISDICTION

16  
17 1. The jurisdiction of this Court attains pursuant to the  
18 FDCPA, 15 U.S.C. § 1692k(d), 28 U.S.C. § 1331, 28 U.S.C. § 1332,  
19 and the doctrine of supplemental jurisdiction. Venue lies in the  
20 Southern Division of the Judicial District of Nevada as Plaintiff's  
21 claims arose from acts of the Defendant(s) perpetrated therein.

22  
23 PRELIMINARY STATEMENT

24 2. This action is instituted in accordance with and to  
25 remedy Defendant's violations of the Federal Fair Debt Collection  
26 Practices Act, 15 U.S.C § 1692 et seq. (hereinafter "FDCPA"), and  
27 of related state law obligations brought as supplemental claims  
28 hereto.

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1       3. In 2010, Defendant initiated a campaign of abusive,  
2 unfair, unreasonable, and unlawful debt collection activity  
3 directed against Plaintiff.

4       4. As a result of these and other violations of law,  
5 Plaintiff seeks hereby to recover actual and statutory damages  
6 together with reasonable attorney's fees and costs.

7  
8                                   PARTIES

9       5. Plaintiff, Angela Hernandez, is a natural person who  
10 resides in Pahrump, Nevada, and is a "consumer" as defined by 15  
11 U.S.C. Section 1692a(3) and allegedly owes a "debt" as defined by  
12 15 U.S.C. Section 1692a(5).

13       6. Defendant, Patenaude & Felix, a Professional Corporation,  
14 (P&F) is a foreign corporation, the principal purpose of whose  
15 business is the collection of debts, operating a debt collection  
16 agency from its principal place of business in San Diego, CA, and  
17 regularly collects or attempts to collect debts owed or due or  
18 asserted to be owed or due another, and is a "debt collector" as  
19 defined by 15 U.S.C. Section 1692a(6).

20                                   FACTUAL ALLEGATIONS

21       7. Plaintiff(s) repeat, reallege and assert all factual  
22 allegations contained in the preliminary statement to this  
23 Complaint and reassert them as incorporated in full herein.

24       8. Plaintiff's husband lost his job and has not worked for a  
25 very long time.

26       9. Plaintiff's home has been foreclosed.

27       10. Plaintiff is on the cusp of bankruptcy.  
28

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1 11. On July 12, 2010, Plaintiff wrote Defendant advising of  
2 her refusal to pay (Exhibit 1).

3 12. Plaintiff's written refusal to pay required Defendant to  
4 cease and desist all collection communications in accordance with  
5 FDCPA § 1692c(c):

6 (c) *Ceasing communication - If a consumer*  
7 *notifies a debt collector in writing that the*  
8 *consumer refuses to pay a debt or that the*  
9 *consumer wishes the debt collector to cease*  
10 *further communication with the consumer, the*  
11 *debt collector shall not communicate further*  
12 *with the consumer with respect to such debt.*

13 13. Defendant received Exhibit 1 on July 13, 2010 (Exhibit  
14 2).

15 14. Notwithstanding, on September 1, 2010, Defendant again  
16 dunned Plaintiff in violation of FDCPA § 1692c(c) (Exhibit 3).

17 15. The foregoing acts and omissions of Defendant were  
18 undertaken by it willfully, maliciously, and intentionally,  
19 knowingly, and/or in gross or reckless disregard of the rights of  
20 Plaintiff.

21 16. Indeed, the foregoing acts and omissions of Defendant  
22 were undertaken by it indiscriminately and persistently, as part of  
23 its regular and routine debt collection efforts, and without regard  
24 to or consideration of the identity or rights of Plaintiff.

25 17. As a proximate result of the foregoing acts and omissions  
26 of Defendant, Plaintiff has suffered actual damages and injury,  
27 including, but not limited to, stress, humiliation, mental anguish  
28

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1 and suffering, and emotional distress, for which Plaintiff should  
2 be compensated in an amount to be proven at trial.

3 18. As a result of the foregoing acts and omissions of  
4 Defendant, and in order to punish Defendant for its outrageous and  
5 malicious conduct, as well as to deter it from committing similar  
6 acts in the future as part of its debt collection efforts,  
7 Plaintiff is entitled to recover punitive damages in an amount to  
8 be proven at trial.

9  
10 CAUSES OF ACTION

11 COUNT I

12 19. The foregoing acts and omissions of Defendant constitute  
13 violations of the FDCPA, including, but not limited to, Sections  
14 1692c, 1692d and 1692e.

15 20. Plaintiff is entitled to recover statutory damages,  
16 actual damages, reasonable attorney's fees, and costs.

17  
18 COUNT II

19 21. The foregoing acts and omissions constitute unreasonable  
20 debt collection practices in violation of the doctrine of Invasion  
21 of Privacy. *Kuhn v. Account Control Technology, Inc.*, 865 F. Supp.  
22 1443, 1448-49 (D. Nev. 1994); *Pittman v. J. J. Mac Intyre Co. of*  
23 *Nevada, Inc.*, 969 F. Supp. 609, 613-14 (D. of Nev. 1997).

24 22. Plaintiff is entitled to recover actual damages as well  
25 as punitive damages in an amount to be proven at trial.

26 JURY DEMANDED

27 Plaintiff hereby demands trial by a jury on all issues so  
28 triable.

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1 WHEREFORE, Plaintiff prays that this Honorable Court grant the  
2 following relief:

- 3 1. Award actual damages.  
4 2. Award punitive damages.  
5 3. Award statutory damages of \$1,000 pursuant to 15 U.S.C.  
6 § 1692k.  
7 4. Award reasonable attorney fees.  
8 5. Award costs.  
9 6. Grant such other and further relief as it deems just and  
10 proper.

11 Respectfully submitted,  
12 

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Nevada Bar #003419  
3017 West Charleston Boulevard  
Suite 95  
Las Vegas, NV 89102  
Attorney for Plaintiff

July 12, 2010

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CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Patenaude & Felix, A.P.C.  
1771 E. Flamingo Rd., Ste. 112A  
Las Vegas, NV 89119

Dear Sir:

I attach your July 1, 2010, missive. Regrettably, I am in absolutely no position to pay this debt as I am on the precipice of bankruptcy and thusly refuse to pay you debt collectors.

God bless all of you.

Your obedient servant,

Angela A. Hernandez

Enclosure

**EXHIBIT 1**



LAW OFFICES OF

**PATENAUE & FELIX, A.P.C.**

A PROFESSIONAL LAW CORPORATION

4545 MURPHY CANYON RD., 3RD FL  
SAN DIEGO, CALIFORNIA 92122  
TEL (858) 744-7600 (800) 832-7675  
FAX (858) 836-0318

213 EAST MAIN STREET  
CARNEGIE, PENNSYLVANIA 15106  
TEL (412) 429-7675 (800) 832-7675  
FAX (412) 429-7679

1771 EAST FLAMINGO RD., STE. 112A  
LAS VEGAS, NEVADA 89119  
TEL (702) 952-2002 (800) 867-3092  
FAX (702) 592-5286

522 SW 5th AVENUE, STE. 1210  
PORTLAND, OREGON 97204  
TEL (503) 208-2676 (800) 832-7675

4727 44th AVENUE, STE. 103  
SEATTLE, WASHINGTON 98116  
TEL (800) 832-7675 (206) 906-8694

July 01, 2010

422609/460662

ANGELA A HERNANDEZ  
2580 CARNATION WAY  
PAHRUMP NV 89048-5358

RE: Our Client: CAPITAL ONE BANK (USA) N.A. - NV (787-A)  
Account Number: 5178057286333484  
Our File Number: 10-67427  
Balance Due: \$2,560.11

Dear Angela A Hernandez:

Please be advised that the above-referenced debt has been assigned to this firm to initiate collection efforts regarding your delinquent outstanding balance to our client.

In the event that legal action is pursued and judgment is ultimately obtained against you, the judgment may include all court costs, prejudgment interest and attorney's fees in addition to the principal amount currently owed. If you wish to eliminate further collection action, please contact us at (800) 867-3092.

Unless you notify this office within THIRTY (30) days of receiving this notice that you dispute the validity of this debt, or any portion thereof, this office will assume this debt is valid.

If you notify this office in writing within THIRTY (30) days of receiving this notice that this debt, or any portion thereof, is disputed, this office will obtain verification of the debt, or a copy of a judgment against you, and mail you a copy of such verification or judgment. Further, if you make a written request upon this office within THIRTY (30) days of receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

This is an attempt to collect a debt and any information obtained will be used for that purpose.

Very truly yours,

LAW OFFICE OF PATENAUE &amp; FELIX

WESTLEY U. VILLANUEVA, ESQ.

THIS COMMUNICATION IS FROM A DEBT COLLECTOR

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## Track & Confirm

### Search Results

Label/Receipt Number: 7005 2570 0000 3475 9105  
Status: Delivered

Your item was delivered at 11:40 am on July 13, 2010 in LAS VEGAS, NV 89119. A proof of delivery record may be available through your local Post Office for a fee.

Additional information for this item is stored in files offline.

[Restore Offline Details >](#)[Return to USPS.com Home >](#)[Track & Confirm](#)

Enter Label/Receipt Number.

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FOIA



United States Postal Service  
Mission: Service, Integrity, Innovation



United States Postal Service  
Mission: Service, Integrity, Innovation

# EXHIBIT 2



LAW OFFICES OF

**PATENAUE & FELIX, A.P.C.**

A PROFESSIONAL LAW CORPORATION

4545 MURPHY CANYON RD., 3RD FL.  
SAN DIEGO, CALIFORNIA 92123  
TEL (858) 244-7600 (800) 832-7675  
FAX (858) 836-9318

213 EAST MAIN STREET  
CARNEGIE, PENNSYLVANIA 15106  
TEL (412) 429-7875 (800) 832-7575  
FAX (412) 429-7879

1771 EAST FLAMINGO RD., STE. 112A  
LAS VEGAS, NEVADA 89119  
TEL (702) 952-2032 (800) 867-3092  
FAX (702) 992-6285

522 SW 5th AVENUE, STE. 1210  
PORTLAND, OREGON 97204  
TEL (503) 208-2678 (800) 832-7875

4727 4th AVENUE, STE. 103  
SEATTLE, WASHINGTON 98116  
TEL (800) 832-7675 (206) 308-8834

September 01, 2010

422609/460662

ANGELA A HERNANDEZ  
2580 CARNATION WAY  
PAHRUMP NV 89048-5358

RE: Our Client: CAPITAL ONE BANK-(USA) N.A. - NV (787-A)  
Account Number: XXXXXXXXXXXXX3484  
Our File Number: 10-67427  
Balance Due: \$2,594.53

Dear Angela A Hernandez:

Please be advised that the above-referenced debt has been assigned to this firm to initiate collection efforts regarding your delinquent outstanding balance to our client.

In the event that legal action is pursued and judgment is ultimately obtained against you, the judgment may include all court costs, prejudgment interest and attorney's fees in addition to the principal amount currently owed. If you wish to eliminate further collection action, please contact us at (800) 867-3092.

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If you notify this office in writing within THIRTY (30) days of receiving this notice that this debt, or any portion thereof, is disputed, this office will obtain verification of the debt, or a copy of a judgment against you, and mail you a copy of such verification or judgment. Further, if you make a written request upon this office within THIRTY (30) days of receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

This is an attempt to collect a debt and any information obtained will be used for that purpose.

Very truly yours,

LAW OFFICE OF PATENAUE &amp; FELIX

WESTLEY U. VILLANUEVA, ESQ.

THIS COMMUNICATION IS FROM A DEBT COLLECTOR

**EXHIBIT 3**